IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3088 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRINCIPAL, NV PATEL COLLEGE OF PURE AND APPLIED SCIENCES

Versus

HITESH DHARMENDRABHAI RAVIA

Appearance:

1. Special Civil Application No. 3088 of 2004

MR DC DAVE for Petitioner No. 1-2

MR BAIJU JOSHI for Respondent No. 1

..... for Respondent No. 2-4

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 05/04/2004

ORAL JUDGEMENT

1. Rule. Mr.Joshi, learned Counsel for respondent

No.1 waives service of rule, Mr.Mitul Shelat, learned Counsel, appears for respondent No.2 and waives service of rule, Mr.Mengdey, learned AGP, who is directed to appear, appears for respondents No.3 and 4 and waives service of rule. With the consent of the parties, the matter is taken up for final hearing today.

2. The present petition is preferred by the petitioner challenging the legality and validity of the order dated 30-12-2003 passed by the Gujarat Affiliated Colleges' Tribunal in Application No.15/29003, whereby the proceedings of the inquiry are stayed.

3. Mr.Dave, learned Counsel for the petitioner, Mr.Joshi, learned Counsel for respondents No.1, Mr.Shelat, learned Counsel for respondent No.2 and Mr.Mengdey, learned AGP for respondents No.3 and 4 are heard. It appears that there is consensus amongst the petitioner, respondent No.1 as well as respondent No.2 that if the Committee comprising of Dr.Nikhil Jhaveri, as the representative of the Management - petitioner, Mr.Chandrakant Pandya, as representative of respondent No.1, Mr.A.R.Jani as the representative of the University, is constituted and allowed to proceed for holding of the departmental inquiry, there is no objection to the Original petitioner/respondent No.1 herein as well as to the Management and the University. The learned Counsel appearing for the petitioner, respondent No.1 as well as respondent No.2 are also agreeable on the point that such Committee may hold departmental inquiry and conclude the same within the stipulated time limit and in absence of any member of the Committee, the members present on the date fixed may be allowed to proceed with the departmental inquiry and the non-availability of any member on the date fixed for hearing or for holding the inquiry should not operate as a bar to the remaining members to proceed with the proceedings of departmental inquiry and to conclude the same.

4. Even otherwise also, so far as respondent No.1 employee and the University are concerned, the members of the Committee are the same and on behalf of the petitioner, the representative of the members of the Committee is changed by Dr.Nikhil Jhaveri. Since the learned Counsel appearing for the contesting parties have agreed for holding of the departmental inquiry by the aforesaid Committee and its conclusion thereof as per the understanding and consensus referred to hereinabove, I find that the order passed by the Tribunal deserves to be substituted with a view to see that the departmental

inquiry is not delayed further. Even otherwise also, this is a cause of 1999 and the departmental inquiry for one reason or another has not proceeded. It would be in the fitness and in the larger interest of all parties, more particularly the employee as well as the Management to see that the inquiry is concluded at the earliest and appropriate action in accordance with law, if called for, is taken.

5. Under the above circumstances, the impugned order dated 30-12-2003 passed by the Tribunal in Application No.15/2003 shall not operate and shall stand substituted with the modification that the Committee comprising of one Professor A.R. Jani, Dr.Nikhil Jhaveri and Mr.Chandrakant Pandya is constituted and the said Committee shall proceed for holding of the departmental inquiry in accordance with law and shall complete the same as early as possible, but not later than the expiry of the period of three months from today. It is also clarified that absence or non-availability of any of the members of the Committee shall not operate as a bar to the remaining members of the Committee to proceed with the departmental inquiry and to conclude the same in accordance with law.

6. The petition is allowed to the aforesaid extent. Rule made absolute accordingly. No order as to costs.

5.4.2004 (Jayant Patel, J.)

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